

Senate File 2374 - Enrolled

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SENATE FILE 2374

AN ACT

CONTAINING VARIOUS PROVISIONS RELATING TO BUSINESS ENTITIES,
INCLUDING LIMITED PARTNERSHIPS, CORPORATIONS, LIMITED
LIABILITY COMPANIES, COOPERATIVES, AND NONPROFIT
CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LIMITED PARTNERSHIPS

Section 1. Section 488.108, subsection 4, paragraph b,
Code Supplement 2005, is amended by striking the paragraph and
inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001
or 486A.1002.

(2) For a limited partnership, this section, section
488.109, or section 488.810.

(3) For a business corporation, section 490.401, 490.402,
490.403, or 490.1422.

(4) For a limited liability company, section 490A.401,
490A.402, or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402,
504.403, or 504.1423.

Sec. 2. Section 488.810, subsection 1, unnumbered
paragraph 1, Code 2005, is amended to read as follows:

A limited partnership that has been administratively
dissolved may apply to the secretary of state for
reinstatement ~~within two years at any time~~ after the effective
date of dissolution. The application must be delivered to the
secretary of state for filing and state all of the following:

Sec. 3. Section 488.810, subsection 1, paragraph c, Code
2005, is amended to read as follows:

~~That if the application is received more than five~~
~~years after the effective date of the dissolution, that the~~
limited partnership's name satisfies the requirements of
section 488.108.

Sec. 4. Section 488.810, subsection 2, Code 2005, is
amended to read as follows:

2. If the secretary of state determines that an
application contains the information required by subsection 2
and that the information is correct, the secretary of state
shall prepare a declaration of reinstatement that states this
determination, sign, and file the ~~original of the~~ declaration
of reinstatement, and ~~serve deliver a copy to~~ the limited
partnership ~~with a copy~~.

Sec. 5. Section 488.810, Code 2005, is amended by adding
the following new subsection:

NEW SUBSECTION. 4. A limited partnership shall not
relinquish the right to retain its name if the reinstatement
is effective within five years of the effective date of the
limited partnership's dissolution.

DIVISION II

BUSINESS CORPORATIONS

Sec. 6. Section 490.401, subsection 2, paragraph b, Code
Supplement 2005, is amended by striking the paragraph and
inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001
or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109,
or 488.810.

(3) For a business corporation, this section, or section
490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401,
490A.402, or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402,
504.403, or 504.1423.

Sec. 7. Section 490.502, subsection 3, Code 2005, is
amended to read as follows:

3. If a registered agent changes the registered agent's

3 4 business address to another place, the registered agent may
3 5 change the business address and the address of the registered
3 6 agent by filing a statement as required in subsection 2 for
3 7 each corporation, or a single statement for all corporations
3 8 named in the notice, except that it need be signed only by the
3 9 registered agent ~~or agents~~ and need not be responsive to
3 10 subsection 1, paragraph "c", and must recite that a copy of
3 11 the statement has been mailed to each corporation named in the
3 12 notice.

3 13 Sec. 8. Section 490.630, subsection 1, Code 2005, is
3 14 amended to read as follows:

3 15 1. ~~Unless section 490.1704 is applicable to the~~
3 16 ~~corporation, the~~ The shareholders of a corporation do not have
3 17 a preemptive right to acquire the corporation's unissued
3 18 shares except to the extent the articles of incorporation so
3 19 provide.

3 20 Sec. 9. Section 490.1422, subsection 1, unnumbered
3 21 paragraph 1, Code 2005, is amended to read as follows:
3 22 A corporation administratively dissolved under section
3 23 490.1421 may apply to the secretary of state for reinstatement
3 24 ~~within two years at any time~~ after the effective date of
3 25 dissolution. The application must meet all of the following
3 26 requirements:

3 27 Sec. 10. Section 490.1422, subsection 1, paragraph c, Code
3 28 2005, is amended to read as follows:

3 29 c. ~~State~~ If the application is received more than five
3 30 years after the effective date of dissolution, state a
3 31 corporate name that satisfies the requirements of section
3 32 490.401.

3 33 Sec. 11. Section 490.1422, subsection 2, paragraph b, Code
3 34 2005, is amended to read as follows:

3 35 b. (1) If the secretary of state determines that the
4 1 application contains the information required by subsection 1,
4 2 and that a delinquency or liability reported pursuant to
4 3 paragraph "a" ~~of this subsection~~ has been satisfied, and that
4 4 the information is correct, the secretary of state shall
4 5 cancel the certificate of dissolution and prepare a
4 6 certificate of reinstatement that recites the secretary of
4 7 state's determination and the effective date of reinstatement,
4 8 file the ~~original of the~~ certificate of reinstatement, and
4 9 ~~serve deliver~~ a copy ~~on~~ to the corporation under section
4 10 490.504.

4 11 (2) If the corporate name in subsection 1, paragraph "c",
4 12 is different than the corporate name in subsection 1,
4 13 paragraph "a", the certificate of reinstatement shall
4 14 constitute an amendment to the articles of incorporation
4 15 insofar as it pertains to the corporate name. A corporation
4 16 shall not relinquish the right to retain its corporate name if
4 17 the reinstatement is effective within five years of the
4 18 effective date of the corporation's dissolution.

4 19 Sec. 12. Section 490.1422, subsection 4, Code 2005, is
4 20 amended by striking the subsection.

4 21 Sec. 13. Section 490.1506, subsection 2, paragraph b, Code
4 22 2005, is amended to read as follows:

4 23 b. A corporate name reserved ~~or~~ registered ~~under~~ or
4 24 protected as provided in section 490.402 or 490.403.

4 25 Sec. 14. Section 490.1701, subsection 3, paragraph a, Code
4 26 Supplement 2005, is amended to read as follows:

4 27 a. The corporation shall amend or restate its articles of
4 28 incorporation to indicate that the corporation adopts this
4 29 chapter and to designate the address of its initial registered
4 30 office and the name of its registered agent ~~or agents~~ at that
4 31 office and, if the name of the corporation is not in
4 32 compliance with the requirements of this chapter, to change
4 33 the name of the corporation to one complying with the
4 34 requirements of this chapter.

4 35 Sec. 15. Section 534.508, subsection 1, Code 2005, is
5 1 amended to read as follows:

5 2 1. IN GENERAL. Sections 490.601 through 490.604, 490.620
5 3 through 490.628, and 490.630, and 490.1704 apply to stock
5 4 associations.

5 5 Sec. 16. Sections 490.1704 and 490.1705, Code 2005, are
5 6 repealed.

5 7 DIVISION III

5 8 LIMITED LIABILITY COMPANIES

5 9 Sec. 17. Section 490A.121, subsections 2 and 3, Code 2005,
5 10 are amended to read as follows:

5 11 2. The secretary of state files a document by ~~stamping or~~
5 12 ~~otherwise endorsing recording it as "filed", together with the~~
5 13 ~~secretary of state's name and official title and acknowledging~~
5 14 the date and time of its receipt, on both the document and the

~~5 15 receipt for the filing fee, and recording the document in the~~
~~5 16 records of the secretary of state. After filing a document,~~
5 17 and except as provided in section 490A.503, the secretary of
5 18 state shall deliver a copy of the filed document, with the
~~5 19 filing fee receipt, or an acknowledgment of receipt if no fee~~
~~5 20 is required, attached, the date and time of filing to the~~
5 21 domestic or foreign limited liability company or its
5 22 representative.

5 23 3. If the secretary of state refuses to file a document,
5 24 the secretary of state shall return it to the domestic or
5 25 foreign limited liability company or its representative ~~within~~
~~5 26 ten days after the document was received by the secretary of~~
~~5 27 state, together with a brief, written explanation of the~~
5 28 reason for the refusal.

5 29 Sec. 18. Section 490A.124, subsection 1, paragraphs e and
5 30 f, Code 2005, are amended to read as follows:

5 31 e. Application for registered name per month or
5 32 part thereof \$ ~~2~~
5 33 No fee
5 34 f. Application for renewal of registered name
5 35 \$ ~~20~~
6 1 No fee

6 2 Sec. 19. Section 490A.131, subsection 1, paragraph b, Code
6 3 Supplement 2005, is amended to read as follows:

6 4 b. The street ~~and mailing~~ address of its ~~designated~~
6 5 registered office and the name and street ~~and mailing~~ address
6 6 of its registered agent ~~for service of process in this state.~~

6 7 Sec. 20. Section 490A.131, subsection 4, Code Supplement
6 8 2005, is amended to read as follows:

6 9 4. If a filed biennial report contains an address of a
6 10 ~~designated registered~~ office or the name or address of ~~an a~~
~~6 11 registered~~ agent ~~for service of process~~ which differs from the
6 12 information shown in the records of the secretary of state
6 13 immediately before the filing, the differing information in
6 14 the biennial report is considered a statement of change under
6 15 section 490A.502.

6 16 Sec. 21. Section 490A.131, subsection 5, Code Supplement
6 17 2005, is amended by striking the subsection.

6 18 Sec. 22. Section 490A.201, Code 2005, is amended to read
6 19 as follows:

6 20 490A.201 PURPOSES.

6 21 1. A limited liability company organized under this
6 22 chapter has the purpose of engaging in any lawful ~~business~~
6 23 activity unless a more limited purpose is set forth in the
6 24 articles of organization.

6 25 2. A limited liability company engaging in ~~a business an~~
~~6 26 activity~~ that is subject to regulation under another statute
6 27 of this state may organize under this chapter only if
6 28 permitted by, and subject to all limitations of, the other
6 29 statute.

6 30 Sec. 23. Section 490A.305, subsection 2, paragraph b, Code
6 31 2005, is amended to read as follows:

6 32 b. Separate and distinct records are maintained for ~~the~~
6 33 that series and separate and distinct records account for the
6 34 assets associated with ~~the that series are held and. The~~
~~6 35 assets associated with a series must be~~ accounted for

7 1 separately from the other assets of the limited liability
7 2 company, ~~or from any other series of the limited liability~~
~~7 3 company including another series.~~

7 4 Sec. 24. Section 490A.305, subsection 13, Code 2005, is
7 5 amended to read as follows:

7 6 13. A foreign limited liability company that is
7 7 ~~registering authorized~~ to do business in this state under ~~this~~
~~7 8 chapter subchapter XIV~~ which is governed by an operating
7 9 agreement that establishes or provides for the establishment
7 10 of designated series of members, managers, or membership
7 11 interests having separate rights, powers, or duties with
7 12 respect to specified property or obligations of the foreign
7 13 limited liability company, or profits and losses associated
7 14 with the specified property or obligations, shall indicate
7 15 that fact on the application for ~~registration a certificate of~~
~~7 16 authority~~ as a foreign limited liability company. In

7 17 addition, the foreign limited liability company shall state on
7 18 the application whether the debts, liabilities, and
7 19 obligations incurred, contracted for, or otherwise existing
7 20 with respect to a particular series, if any, are enforceable
7 21 against the assets of such series only, and not against the
7 22 assets of the foreign limited liability company generally.

7 23 Sec. 25. Section 490A.401, subsection 3, paragraph b, Code
7 24 2005, is amended by striking the paragraph and inserting in
7 25 lieu thereof the following:

7 26 b. A name reserved, registered, or protected as follows:
7 27 (1) For a limited liability partnership, section 486A.1001
7 28 or 486A.1002.
7 29 (2) For a limited partnership, section 488.108, 488.109,
7 30 or 488.810.
7 31 (3) For a business corporation, section 490.401, 490.402,
7 32 490.403, or 490.1422.
7 33 (4) For a limited liability company, this section or
7 34 section 490A.402 or 490A.1313.
7 35 (5) For a nonprofit corporation, section 504.401, 504.402,
8 1 504.403, or 504.1423.

8 2 Sec. 26. Section 490A.401, subsection 6, Code 2005, is
8 3 amended to read as follows:

8 4 6. This chapter does not control the use of fictitious
8 5 names; however, if a limited liability company uses a
8 6 fictitious name in this state it shall deliver to the
8 7 secretary of state for filing a certified copy of the
8 8 resolution ~~of the limited liability company filed and executed~~
8 9 according to section 490A.120 adopting the fictitious name.

8 10 Sec. 27. Section 490A.1301, Code 2005, is amended by
8 11 adding the following new subsection:
8 12 NEW SUBSECTION. 4. The administrative dissolution of the
8 13 limited liability company under section 490A.1312.

8 14 Sec. 28. NEW SECTION. 490A.1308 REVOCATION OF
8 15 DISSOLUTION.

8 16 1. A limited liability company may revoke its dissolution
8 17 within one hundred twenty days of the effective date of its
8 18 articles of dissolution.

8 19 2. Revocation of dissolution must be authorized in the
8 20 same manner as the dissolution was authorized unless that
8 21 authorization permitted revocation by action of the managers
8 22 of the limited liability company alone, in which event the
8 23 managers may revoke the dissolution without member action.

8 24 3. After the revocation of dissolution is authorized, the
8 25 limited liability company may revoke the dissolution by
8 26 delivering to the secretary of state for filing articles of
8 27 revocation of dissolution, together with a copy of its
8 28 articles of dissolution, that set forth all of the following:

8 29 a. The name of the limited liability company.
8 30 b. The effective date of the dissolution that was revoked.
8 31 c. The date that the revocation of dissolution was
8 32 authorized.

8 33 d. If members of the limited liability company unanimously
8 34 revoked the dissolution, a statement to that effect.

8 35 e. If the managers of the limited liability company
9 1 revoked a dissolution authorized by its members, a statement
9 2 that revocation was permitted by action by the managers alone
9 3 pursuant to that authorization.

9 4 4. Revocation of dissolution is effective upon the
9 5 effective date of the articles of revocation of dissolution.

9 6 5. When the revocation of dissolution is effective, it
9 7 relates back to and takes effect as of the effective date of
9 8 the dissolution as if the dissolution had never occurred.

9 9 PART B

9 10 ADMINISTRATIVE DISSOLUTION

9 11 Sec. 29. NEW SECTION. 490A.1311 GROUNDS FOR
9 12 ADMINISTRATIVE DISSOLUTION.

9 13 The secretary of state may commence a proceeding under
9 14 section 490A.1312 to administratively dissolve a limited
9 15 liability company if any of the following apply:

9 16 1. The limited liability company has not delivered a
9 17 biennial report to the secretary of state in a form that meets
9 18 the requirements of section 490A.131, within sixty days after
9 19 it is due, or has not paid the filing fee as determined by the
9 20 secretary of state, within sixty days after it is due.

9 21 2. The limited liability company is without a registered
9 22 office or registered agent in this state as required in
9 23 subchapter V for sixty days or more.

9 24 3. The limited liability company does not notify the
9 25 secretary of state within sixty days that its registered
9 26 office or registered agent as required in subchapter V has
9 27 been changed, its registered office has been discontinued, or
9 28 that its registered agent has resigned.

9 29 4. The limited liability company's period of duration
9 30 stated in its articles of organization expires.

9 31 Sec. 30. NEW SECTION. 490A.1312 PROCEDURE FOR AND EFFECT
9 32 OF ADMINISTRATIVE DISSOLUTION.

9 33 1. If the secretary of state determines that one or more
9 34 grounds exist under section 490A.1311 for dissolving a limited
9 35 liability company, the secretary of state shall serve the
10 1 limited liability company with written notice of the secretary

10 2 of state's determination under section 490A.504.
10 3 2. If the limited liability company does not correct each
10 4 ground for dissolution or demonstrate to the reasonable
10 5 satisfaction of the secretary of state that each ground
10 6 determined by the secretary of state does not exist within
10 7 sixty days after service of the notice is perfected under
10 8 section 490A.504, the secretary of state shall
10 9 administratively dissolve the limited liability company by
10 10 signing a certificate of dissolution that recites the ground
10 11 or grounds for dissolution and its effective date. The
10 12 secretary of state shall file the original of the certificate
10 13 and serve a copy on the limited liability company under
10 14 section 490A.504.

10 15 3. A limited liability company administratively dissolved
10 16 continues its existence but shall not carry on any business
10 17 except that necessary to wind up and liquidate its business
10 18 and affairs under part A of this subchapter and notify
10 19 claimants under sections 490A.1306 and 490A.1307.

10 20 4. The administrative dissolution of a limited liability
10 21 company does not terminate the authority of its registered
10 22 agent as provided in subchapter V.

10 23 5. The secretary of state's administrative dissolution of
10 24 a limited liability company pursuant to this section appoints
10 25 the secretary of state the limited liability company's agent
10 26 for service of process in any proceeding based on a cause of
10 27 action which arose during the time the limited liability
10 28 company was authorized to transact business in this state.
10 29 Service of process on the secretary of state under this
10 30 subsection is service on the limited liability company. Upon
10 31 receipt of process, the secretary of state shall serve a copy
10 32 of the process on the limited liability company as provided in
10 33 section 490A.504. This subsection does not preclude service
10 34 on the limited liability company's registered agent, if any.

10 35 Sec. 31. NEW SECTION. 490A.1313 REINSTATEMENT FOLLOWING
11 1 ADMINISTRATIVE DISSOLUTION.

11 2 1. A limited liability company administratively dissolved
11 3 under section 490A.1312 may apply to the secretary of state
11 4 for reinstatement at any time after the effective date of
11 5 dissolution. The application must meet all of the following
11 6 requirements:

11 7 a. Recite the name of the limited liability company at its
11 8 date of dissolution and the effective date of its
11 9 administrative dissolution.

11 10 b. State that the ground or grounds for dissolution as
11 11 provided in section 490A.1311 have been eliminated.

11 12 c. If the application is received more than five years
11 13 after the effective date of the administrative dissolution,
11 14 state a name that satisfies the requirements of section
11 15 490A.401.

11 16 d. State the federal tax identification number of the
11 17 limited liability company.

11 18 2. a. The secretary of state shall refer the federal tax
11 19 identification number contained in the application for
11 20 reinstatement to the department of revenue. The department of
11 21 revenue shall report to the secretary of state the tax status
11 22 of the limited liability company. If the department reports
11 23 to the secretary of state that a filing delinquency or
11 24 liability exists against the limited liability company, the
11 25 secretary of state shall not cancel the certificate of
11 26 dissolution until the filing delinquency or liability is
11 27 satisfied.

11 28 b. If the secretary of state determines that the
11 29 application contains the information required by subsection 1,
11 30 and that a delinquency or liability reported pursuant to
11 31 paragraph "a" of this subsection has been satisfied, and that
11 32 the information is correct, the secretary of state shall
11 33 cancel the certificate of dissolution and prepare a
11 34 certificate of reinstatement that recites the secretary of
11 35 state's determination and the effective date of reinstatement,
12 1 file the original of the certificate, and serve a copy on the
12 2 limited liability company under section 490A.504. If the
12 3 limited liability company's name in subsection 1, paragraph
12 4 "c", is different than the name in subsection 1, paragraph
12 5 "a", the certificate of reinstatement shall constitute an
12 6 amendment to the limited liability company's articles of
12 7 organization insofar as it pertains to its name. A limited
12 8 liability company shall not relinquish the right to retain its
12 9 name as provided in section 490A.401, if the reinstatement is
12 10 effective within five years of the effective date of the
12 11 limited liability company's dissolution.

12 12 3. When the reinstatement is effective, it relates back to

12 13 and takes effect as of the effective date of the
12 14 administrative dissolution as if the administrative
12 15 dissolution had never occurred.
12 16 Sec. 32. NEW SECTION. 490A.1314 APPEAL FROM DENIAL OF
12 17 REINSTATEMENT.
12 18 1. If the secretary of state denies a limited liability
12 19 company's application for reinstatement following
12 20 administrative dissolution pursuant to section 490A.1312, the
12 21 secretary of state shall serve the limited liability company
12 22 under section 490A.504 with a written notice that explains the
12 23 reason or reasons for denial.
12 24 2. The limited liability company may appeal the denial of
12 25 reinstatement to the district court within thirty days after
12 26 service of the notice of denial is perfected. The limited
12 27 liability company appeals by petitioning the court to set
12 28 aside the dissolution and attaching to the petition copies of
12 29 the secretary of state's certificate of dissolution, the
12 30 limited liability company's application for reinstatement, and
12 31 the secretary of state's notice of denial.
12 32 3. The court may summarily order the secretary of state to
12 33 reinstate the dissolved limited liability company or may take
12 34 other action the court considers appropriate.
12 35 4. The court's final decision may be appealed as in other
13 1 civil proceedings.
13 2 Sec. 33. Section 490A.1401, Code 2005, is amended to read
13 3 as follows:
13 4 490A.1401 LAW GOVERNING.
13 5 The law of the state or other jurisdiction under which a
13 6 foreign limited liability company is formed governs its
13 7 formation and internal affairs and the liability of its
13 8 members and managers. A foreign limited liability company
13 9 shall not be denied ~~registration a certificate of authority~~ by
13 10 reason of any difference between those laws and the laws of
13 11 this state. A foreign limited liability company holding a
13 12 valid ~~registration certificate of authority~~ in this state
13 13 shall have no greater rights and privileges than a domestic
13 14 limited liability company. The ~~registration certificate of~~
13 15 ~~authority~~ shall not be deemed to authorize the foreign limited
13 16 liability company to exercise any of its powers or purposes
13 17 that a domestic limited liability company is forbidden by law
13 18 to exercise in this state.
13 19 Sec. 34. Section 490A.1402, Code 2005, is amended by
13 20 striking the section and inserting in lieu thereof the
13 21 following:
13 22 490A.1402 APPLICATION FOR CERTIFICATE OF AUTHORITY.
13 23 1. A foreign limited liability company may apply for a
13 24 certificate of authority to transact business in this state by
13 25 delivering an application to the secretary of state for
13 26 filing. The application must set forth all of the following:
13 27 a. The name of the foreign limited liability company or,
13 28 if its name is unavailable for use in this state, a name that
13 29 satisfies the requirements of section 490A.401.
13 30 b. The name of the state or country under whose law it is
13 31 organized.
13 32 c. Its date of formation and period of duration.
13 33 d. The street address of its principal office.
13 34 e. The address of its registered office in this state and
13 35 the name of its registered agent at that address as provided
14 1 in subchapter V.
14 2 2. The foreign limited liability company shall deliver the
14 3 completed application to the secretary of state, and also
14 4 deliver to the secretary of state a certificate of existence
14 5 or a document of similar import duly authenticated by the
14 6 secretary of state or proper officer of the state or other
14 7 jurisdiction of its formation which is dated no earlier than
14 8 ninety days prior to the date the application is filed with
14 9 the secretary of state.
14 10 Sec. 35. Section 490A.1404, unnumbered paragraph 1, Code
14 11 2005, is amended to read as follows:
14 12 A certificate of ~~registration authority~~ shall not be issued
14 13 to a foreign limited liability company unless the name of the
14 14 limited liability company satisfies the requirements of
14 15 section 490A.401. To obtain or maintain a certificate of
14 16 ~~registration authority~~, the company shall comply with the
14 17 following:
14 18 Sec. 36. Section 490A.1405, Code 2005, is amended to read
14 19 as follows:
14 20 490A.1405 CHANGE AND AMENDMENT.
14 21 If any statement in the application for ~~registration a~~
14 22 ~~certificate of authority~~ of a foreign limited liability
14 23 company was false when made or any arrangements or other facts

14 24 described have changed, making the application inaccurate in
14 25 any respect, the foreign limited liability company shall
14 26 promptly deliver to the secretary of state for filing articles
14 27 of correction correcting such statement as required by section
14 28 490A.123.

14 29 Sec. 37. Section 490A.1406, subsection 1, paragraph b,
14 30 Code 2005, is amended to read as follows:

14 31 b. That the foreign limited liability company is not
14 32 transacting business in this state and that it surrenders its
14 33 ~~registration certificate of authority~~ to transact business in
14 34 this state.

14 35 Sec. 38. Section 490A.1406, subsection 2, Code 2005, is
15 1 amended to read as follows:

15 2 2. The certificate of ~~registration authority~~ shall be
15 3 canceled upon the filing of the certificate of cancellation by
15 4 the secretary of state.

15 5 Sec. 39. Section 490A.1410, subsection 1, paragraph a,
15 6 Code 2005, is amended by adding the following new
15 7 subparagraph:

15 8 NEW SUBPARAGRAPH. (5) Deliver for filing to the secretary
15 9 of state a biennial report as required by section 490A.131.

15 10 Sec. 40. Section 490A.1410, subsection 2, unnumbered
15 11 paragraph 1, Code 2005, is amended to read as follows:

15 12 A certificate of ~~registration authority~~ of a foreign
15 13 limited liability company shall not be revoked by the
15 14 secretary of state, unless both of the following apply:

15 15 DIVISION IV
15 16 TRADITIONAL COOPERATIVES

15 17 Sec. 41. Section 499.78, subsection 1, unnumbered
15 18 paragraph 1, Code 2005, is amended to read as follows:

15 19 An association administratively dissolved under section
15 20 499.77 may apply to the secretary of state for reinstatement
15 21 ~~within two years at any time~~ after the effective date of
15 22 dissolution. The application must meet all of the following
15 23 requirements:

15 24 DIVISION V
15 25 CLOSED COOPERATIVES

15 26 Sec. 42. Section 501.104, Code 2005, is amended to read as
15 27 follows:

15 28 501.104 NAME.

15 29 The name of a cooperative organized under this chapter must
15 30 ~~comply with all of the following:~~

15 31 1. ~~The name must~~ contain the word "cooperative", "coop",
15 32 or "co-op", ~~and the~~

15 33 2. ~~The name must be distinguishable from the names all of~~
15 34 ~~the following:~~

15 35 a. ~~The name of cooperatives a cooperative~~ organized under
16 1 this chapter ~~or~~

16 2 b. ~~The name of a cooperative or cooperative association~~
16 3 ~~organized under another chapter, including chapter 497, 498,~~

16 4 ~~499, or 501A.~~

16 5 c. ~~The name of a foreign cooperatives cooperative,~~
16 6 ~~cooperative association, or corporation~~ authorized to do

16 7 business in this state, ~~including as provided in section~~
16 8 ~~499.54 or section 501A.221.~~

16 9 d. ~~The name of a cooperative which has been~~
16 10 ~~administratively dissolved pursuant to section 501.812 for a~~
16 11 ~~period of less than five years from the effective date of the~~

16 12 ~~dissolution.~~

16 13 Sec. 43. Section 501.813, subsection 1, unnumbered
16 14 paragraph 1, Code 2005, is amended to read as follows:

16 15 A cooperative administratively dissolved under section
16 16 501.812 may apply to the secretary of state for reinstatement

16 17 ~~within two years at any time~~ after the effective date of
16 18 dissolution. The application must meet all of the following

16 19 requirements:

16 20 Sec. 44. Section 501.813, subsection 1, paragraph c, Code
16 21 2005, is amended to read as follows:

16 22 c. ~~State~~ If the application is received more than five
16 23 years after the effective date of the cooperative's

16 24 dissolution, state a name that satisfies the requirements of
16 25 section 501.104.

16 26 Sec. 45. Section 501.813, subsection 2, paragraph b, Code
16 27 2005, is amended to read as follows:

16 28 b. (1) If the secretary of state determines that the
16 29 application contains the information required by subsection 1,

16 30 and that a delinquency or liability reported pursuant to
16 31 paragraph "a" has been satisfied, and that the information is

16 32 correct, the secretary of state shall cancel the certificate
16 33 of dissolution and prepare a certificate of reinstatement that

16 34 recites the secretary of state's determination and the

16 35 effective date of reinstatement, file the ~~original of the~~
17 1 ~~certificate document~~, and ~~serve deliver~~ a copy ~~on to~~ the
17 2 cooperative under section 501.106.
17 3 (2) If the name of the cooperative as provided in
17 4 subsection 1, paragraph "c", is different than the name in
17 5 subsection 1, paragraph "a", the certificate of reinstatement
17 6 shall constitute an amendment to the articles of association
17 7 insofar as it pertains to the name. A cooperative shall not
17 8 relinquish the right to retain its name if the reinstatement
17 9 is effective within five years of the effective date of the
17 10 cooperative's dissolution.

17 11 DIVISION VI
17 12 NONPROFIT CORPORATIONS
17 13 Sec. 46. Section 504.401, subsection 2, paragraph b, Code
17 14 Supplement 2005, is amended by striking the paragraph and
17 15 inserting in lieu thereof the following:

17 16 b. A name reserved, registered, or protected as follows:
17 17 (1) For a limited liability partnership, section 486A.1001
17 18 or 486A.1002.
17 19 (2) For a limited partnership, section 488.108, 488.109,
17 20 or 488.810.
17 21 (3) For a business corporation, section 490.401, 490.402,
17 22 490.403, or 490.1422.
17 23 (4) For a limited liability company, section 490A.401,
17 24 490A.402, or 490A.1313.
17 25 (5) For a nonprofit corporation, this section or section
17 26 504.402, 504.403, or 504.1423.

17 27 Sec. 47. Section 504.403, subsection 1, paragraph b, Code
17 28 Supplement 2005, is amended by striking the paragraph and
17 29 inserting in lieu thereof the following:

17 30 b. A name reserved, registered, or protected as follows:
17 31 (1) For a limited liability partnership, section 486A.1001
17 32 or 486A.1002.
17 33 (2) For a limited partnership, section 488.108, 488.109,
17 34 or 488.810.
17 35 (3) For a business corporation, section 490.401, 490.402,
18 1 490.403, or 490.1422.
18 2 (4) For a limited liability company, section 490A.401,
18 3 490A.402, or 490A.1313.
18 4 (5) For a nonprofit corporation, this section or section
18 5 501.401, 501.402, or 504.1423.

18 6 Sec. 48. Section 504.702, subsection 1, paragraph b, Code
18 7 2005, is amended to read as follows:

18 8 b. Except as provided in the articles or bylaws of a
18 9 ~~religious~~ corporation, if the holders of at least five percent
18 10 of the voting power of any corporation sign, date, and deliver
18 11 to any corporate officer one or more written demands for the
18 12 meeting describing the purpose for which it is to be held.
18 13 Unless otherwise provided in the articles of incorporation, a
18 14 written demand for a special meeting may be revoked by a
18 15 writing to that effect received by the corporation prior to
18 16 the receipt by the corporation of demands sufficient in number
18 17 to require the holding of a special meeting.

18 18 Sec. 49. Section 504.808, subsection 10, unnumbered
18 19 paragraph 1, Code 2005, is amended to read as follows:

18 20 The articles or bylaws of a ~~religious~~ corporation may do
18 21 both of the following:

18 22 Sec. 50. Section 504.901, Code Supplement 2005, is amended
18 23 to read as follows:

18 24 504.901 PERSONAL LIABILITY.

18 25 1. Except as otherwise provided in this chapter, a
18 26 director, officer, employee, or member of a corporation is not
18 27 liable for the corporation's debts or obligations and a
18 28 director, officer, member, or other volunteer is not
18 29 personally liable in that capacity to any person for any
18 30 action taken or failure to take any action in the discharge of
18 31 the person's duties except liability for any of the following:

18 32 1- a. The amount of any financial benefit to which the
18 33 person is not entitled.
18 34 2- b. An intentional infliction of harm on the
18 35 corporation or the members.
19 1 3- c. A violation of section 504.835.
19 2 4- d. An intentional violation of criminal law.

19 3 2. A provision set forth in the articles of incorporation
19 4 eliminating or limiting the liability of a director to the
19 5 corporation or its members for money damages for any action
19 6 taken, or any failure to take any action, pursuant to section
19 7 504.202, subsection 2, paragraph "d", shall not affect the
19 8 applicability of this section.

19 9 Sec. 51. Section 504.1001, Code 2005, is amended to read
19 10 as follows:

19 11 504.1001 AUTHORITY TO AMEND.

19 12 A corporation may amend its articles of incorporation at
19 13 any time to add or change a provision that is required or
19 14 permitted in the articles as of the effective date of the
19 15 amendment or to delete a provision that is not required to be
19 16 contained in the articles of incorporation. ~~Whether a~~
19 17 ~~provision is required or permitted in the articles is~~
19 18 ~~determined as of the effective date of the amendment.~~

19 19 Sec. 52. Section 504.1002, subsection 1, Code 2005, is
19 20 amended to read as follows:

19 21 1. Unless the articles of incorporation provide otherwise,
19 22 a corporation's board of directors may adopt ~~one or more~~
19 23 amendments to the corporation's articles of incorporation
19 24 without member approval to do for any of the following
19 25 purposes:

19 26 a. ~~Extend~~ To extend the duration of the corporation if it
19 27 was incorporated at a time when limited duration was required
19 28 by law.

19 29 b. ~~Delete~~ To delete the names and addresses of the initial
19 30 directors.

19 31 c. ~~Delete~~ To delete the name and address of the initial
19 32 registered agent or registered office, if a statement of
19 33 change is on file with the secretary of state.

19 34 d. ~~Change~~ To change the corporate name by substituting the
19 35 word "corporation", "incorporated", "company", "limited", or
20 1 the abbreviation "corp.", "inc.", "co.", or "ltd.", for a
20 2 similar word or abbreviation in the name, or by adding,
20 3 deleting, or changing a geographical attribution to the name.

20 4 e. ~~Make~~ To make any other change expressly permitted by
20 5 this subchapter to be made by director action.

20 6 Sec. 53. Section 504.1005, unnumbered paragraph 1, Code
20 7 2005, is amended to read as follows:

20 8 ~~A~~ After an amendment to the articles of incorporation has
20 9 been adopted and approved in the manner required by this
20 10 chapter and by the articles of incorporation or bylaws, the
20 11 corporation amending its articles shall deliver to the
20 12 secretary of state, for filing, articles of amendment setting
20 13 forth:

20 14 Sec. 54. Section 504.1005, subsections 4 and 5, Code 2005,
20 15 are amended to read as follows:

20 16 4. If approval by members was not required, ~~a statement to~~
20 17 ~~that effect and~~ a statement that the amendment was duly
20 18 approved by a sufficient vote of the incorporators or by the
20 19 board of directors or incorporators, as the case may be, and
20 20 that member approval was not required.

20 21 5. If approval by members was required, ~~both of the~~
20 22 ~~following:~~

20 23 a. ~~The designation, number of memberships outstanding,~~
20 24 ~~number of votes entitled to be cast by each class entitled to~~
20 25 ~~vote separately on the amendment, and number of votes of each~~
20 26 ~~class indisputably voting on the amendment.~~

20 27 b. ~~Either the total number of votes cast for and against~~
20 28 ~~the amendment by each class entitled to vote separately on the~~
20 29 ~~amendment or the total number of undisputed votes cast for the~~
20 30 ~~amendment by each class and a statement that the number of~~
20 31 ~~votes cast for the amendment by each class was sufficient for~~
20 32 ~~approval by that class duly approved by the members in the~~
20 33 manner required by this chapter, the articles of
20 34 incorporation, and bylaws.

20 35 Sec. 55. Section 504.1006, Code 2005, is amended to read
21 1 as follows:

21 2 504.1006 RESTATED ARTICLES OF INCORPORATION.

21 3 1. A corporation's board of directors may restate the
21 4 corporation's articles of incorporation at any time with or
21 5 without approval by members or any other person, to
21 6 consolidate all amendments into a single document.

21 7 2. ~~The restatement may~~ If the restated articles include
21 8 one or more new amendments to the articles. If the
21 9 restatement includes an amendment requiring that require
21 10 approval by the members or any other person, it the amendments
21 11 must be adopted as provided in section 504.1003.

21 12 3. ~~If the restatement includes an amendment requiring~~
21 13 ~~approval by members, the board must submit the restatement to~~
21 14 ~~the members for their approval.~~

21 15 4. ~~If the board seeks to have the restatement approved by~~
21 16 ~~the members at a membership meeting, the corporation shall~~
21 17 ~~notify each of its members of the proposed membership meeting~~
21 18 ~~in writing in accordance with section 504.705. The notice~~
21 19 ~~must also state that the purpose, or one of the purposes, of~~
21 20 ~~the meeting is to consider the proposed restatement and must~~
21 21 ~~contain or be accompanied by a copy or summary of the~~

~~21 22 restatement that identifies any amendments or other changes~~
~~21 23 the restatement would make in the articles.~~

~~21 24 5. If the board seeks to have the restatement approved by~~
~~21 25 the members by written ballot or written consent, the material~~
~~21 26 soliciting the approval shall contain or be accompanied by a~~
~~21 27 copy or summary of the restatement that identifies any~~
~~21 28 amendments or other changes the restatement would make in the~~
~~21 29 articles.~~

~~21 30 6. A restatement requiring approval by the members must be~~
~~21 31 approved by the same vote as an amendment to articles under~~
~~21 32 section 504.1003.~~

~~21 33 7. 3. If the restatement includes an amendment requiring~~
~~21 34 approval pursuant to section 504.1031, the board must submit~~
~~21 35 the restatement for such approval.~~

~~22 1 8. 4. A corporation restating that restates its articles~~
~~22 2 of incorporation shall deliver to the secretary of state for~~
~~22 3 filing articles of restatement setting forth the name of the~~
~~22 4 corporation and the text of the restated articles of~~
~~22 5 incorporation together with a certificate setting forth all of~~
~~22 6 the following:~~

~~22 7 a. Whether the restatement contains an amendment to the~~
~~22 8 articles requiring approval by the members or any other person~~
~~22 9 other than the board of directors and, if it does not, that~~
~~22 10 the board of directors adopted the restatement.~~

~~22 11 b. If the restatement contains an amendment to the~~
~~22 12 articles requiring approval by the members, the information~~
~~22 13 required by section 504.1005.~~

~~22 14 c. If the restatement contains an amendment to the~~
~~22 15 articles requiring approval by a person whose approval is~~
~~22 16 required pursuant to section 504.1031, a statement that such~~
~~22 17 approval was obtained stating that the restated articles~~
~~22 18 consolidate all amendments into a single document. If a new~~
~~22 19 amendment is included in the restated articles, the~~
~~22 20 corporation shall include the statement required in section~~
~~22 21 504.1005.~~

~~22 22 9. 5. Duly adopted restated articles of incorporation~~
~~22 23 supersede the original articles of incorporation and all~~
~~22 24 amendments to the original articles of incorporation.~~

~~22 25 10. 6. The secretary of state may certify restated~~
~~22 26 articles of incorporation as the articles of incorporation~~
~~22 27 currently in effect without including the certificate~~
~~22 28 information required by subsection 8 4.~~

~~22 29 Sec. 56. Section 504.1007, subsection 1, Code 2005, is~~
~~22 30 amended to read as follows:~~

~~22 31 1. A corporation's articles may be amended without board~~
~~22 32 approval or approval by the members or approval required~~
~~22 33 pursuant to section 504.1031 to carry out a plan of~~
~~22 34 reorganization ordered or decreed by a court of competent~~
~~22 35 jurisdiction under federal statute if the articles after~~
~~23 1 amendment contain only provisions required or permitted by~~
~~23 2 section 504.202 the authority of law of the United States.~~

~~23 3 Sec. 57. Section 504.1008, Code Supplement 2005, is~~
~~23 4 amended to read as follows:~~

~~23 5 504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.~~

~~23 6 An amendment to the articles of incorporation does not~~
~~23 7 affect a cause of action existing against or in favor of the~~
~~23 8 corporation, a proceeding to which the corporation is a party,~~
~~23 9 any requirement or limitation imposed upon the corporation, or~~
~~23 10 any property held by it by virtue of any trust upon which such~~
~~23 11 property is held by the corporation, or the existing rights of~~
~~23 12 persons other than members of the corporation. An amendment~~
~~23 13 changing a corporation's name does not abate a proceeding~~
~~23 14 brought by or against the corporation in its former name.~~

~~23 15 Sec. 58. Section 504.1423, subsection 1, unnumbered~~
~~23 16 paragraph 1, Code 2005, is amended to read as follows:~~

~~23 17 A corporation administratively dissolved under section~~
~~23 18 504.1422 may apply to the secretary of state for reinstatement~~
~~23 19 within two years at any time after the effective date of~~
~~23 20 dissolution. The application must state all of the following:~~

~~23 21 Sec. 59. Section 504.1423, subsection 1, paragraph c, Code~~
~~23 22 2005, is amended to read as follows:~~

~~23 23 c. That If the application is received more than five~~
~~23 24 years after the effective date of dissolution, state the~~
~~23 25 corporation's name satisfies the requirements of section~~
~~23 26 504.401.~~

~~23 27 Sec. 60. Section 504.1423, subsection 2, paragraph b, Code~~
~~23 28 2005, is amended to read as follows:~~

~~23 29 b. (1) If the secretary of state determines that the~~
~~23 30 application contains the information required by subsection 1,~~
~~23 31 that a delinquency or liability reported pursuant to paragraph~~
~~23 32 "a" has been satisfied, and that all of the application~~

23 33 information is correct, the secretary of state shall cancel
23 34 the certificate of dissolution and prepare a certificate of
23 35 reinstatement reciting that determination and the effective
24 1 date of reinstatement, file the ~~original of the certificate~~
24 2 ~~document~~, and ~~serve deliver~~ a copy ~~on to~~ the corporation under
24 3 section 504.504.

24 4 (2) If the corporate name in subsection 1, paragraph "c",
24 5 is different from the corporate name in subsection 1,
24 6 paragraph "a", the certificate of reinstatement shall
24 7 constitute an amendment to the articles of incorporation
24 8 insofar as it pertains to the corporate name. A corporation
24 9 ~~shall not relinquish the right to retain its corporate name if~~
24 10 ~~the reinstatement is effective within five years of the~~
24 11 ~~effective date of the corporation's dissolution.~~

24 12 Sec. 61. Section 504.1506, subsection 2, paragraph b, Code
24 13 Supplement 2005, is amended to read as follows:

24 14 b. A corporate name reserved, ~~or registered under, or~~
24 15 ~~protected as provided in~~ section 490.402 or 490.403 or section
24 16 504.402 or 504.403.

24 17 Sec. 62. NEW SECTION. 504.1607 EXCEPTION TO NOTICE
24 18 REQUIREMENT.

24 19 1. Whenever notice is required to be given under any
24 20 provision of this chapter to any member, such notice shall not
24 21 be required to be given if notice of two consecutive annual
24 22 meetings, and all notices of meetings during the period
24 23 between such two consecutive annual meetings, have been sent
24 24 to the member at the member's address as shown on the records
24 25 of the corporation and have been returned as undeliverable.

24 26 2. If the member delivers to the corporation a written
24 27 notice setting forth the member's then-current address, the
24 28 requirement that notice be given to the member shall be
24 29 reinstated.

24 30
24 31

24 32 _____
24 33 JEFFREY M. LAMBERTI
24 34 President of the Senate

24 35

25 1
25 2 _____
25 3 CHRISTOPHER C. RANTS
25 4 Speaker of the House

25 5
25 6 I hereby certify that this bill originated in the Senate and
25 7 is known as Senate File 2374, Eighty-first General Assembly.

25 8

25 9

25 10 _____
25 11 MICHAEL E. MARSHALL
25 12 Secretary of the Senate

25 13 Approved _____, 2006

25 14

25 15

25 16

25 17 _____
25 18 THOMAS J. VILSACK
Governor